

ANALYSIS OF AMENDED BILL

Author: Poochigian Analyst: Kristina North Bill Number: SB 818
Related Bills: None. Telephone: 845-6978 Amended Date: May 13, 1999
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Public School Uniforms Credit/FTB Report To DOF Each Year And Submit A
Report To Legislature Regarding Fiscal Impact Of Credit

SUMMARY OF BILL

Under the Personal Income Tax Law (PITL), this bill would establish a credit equal to the lesser of 50% of qualified costs paid by a taxpayer or \$250 for a public school uniform mandated by a school district.

This analysis will not address the bill's provision regarding the computation under Proposition 98 of available General Fund revenues for school districts and community colleges, as it does not impact the department.

SUMMARY OF AMENDMENT

The May 13, 1999, amendment replaced the expansion of the Manufacturers' Investment Credit language with the public school uniforms credit discussed in this analysis.

EFFECTIVE DATE

This bill would apply to taxable years beginning on or after January 1, 1999.

SPECIFIC FINDINGS

Current federal and state tax laws provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child and dependent care credits) or to influence business practices and decisions or achieve social goals. However, neither state nor federal laws currently allow a credit for expenses related to the purchase of a mandated public school uniform.

Current state tax law provides general rules for the division of credits between multiple taxpayers, a husband and wife, or partners. The general rules also provided that an unused credit may continue to be carried over as specified even after the credit has been repealed. Unless specified in state income tax law, no tax credit may reduce regular tax below the tentative minimum tax for purposes of the alternative minimum tax.

Current federal and state tax laws allow a tax deduction for limited types of personal expenses. Some personal expenses, including certain taxes and home mortgage interest, generally are fully deductible. Personal medical and dental expenses are deductible only to the extent they exceed 7.5% of the taxpayer's adjusted gross income (AGI), while other miscellaneous itemized deductions, which include unreimbursed employee expenses, job education, and tax preparation fees, must exceed 2% of AGI. Generally, expenses paid or incurred for the education of a child are considered a personal expense which is not deductible.

Board Position:

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Department Director

Date

Gerald Goldberg

06/18//1999

Current federal and state tax laws allow a deduction for business expenses, which could include advertising on a public school uniform.

Under the Education Code, current state law provides that the governing board of any school district may adopt or rescind a reasonable dress code policy that requires pupils to wear a uniform or prohibits pupils from wearing "gang-related apparel." Individual schools may include the reasonable dress code policy as part of its school safety plan. Parents may choose not to have their children comply with an adopted school uniform policy. If a school uniform is required, the specific uniform selected must be determined by the principal, staff, and parents of the individual school.

This bill would allow a tax credit equal to the lesser of 50% of qualified costs paid by a taxpayer or \$250 for a school uniform in a qualified school as mandated by the student's school district.

This bill would define:

- ♦ "qualified cost" as any expenditure by the taxpayer for a student's public school uniform mandated by the student's school district pursuant to the Education Code.
- ♦ "qualified school" as a public school, grades K-12, located in this state.

This bill would require the taxpayer to provide a copy of the receipt for the public school uniform to the FTB upon request.

This bill would provide that, in the case of a husband and wife filing a separate return, the credit would be divided equally between them.

This bill would provide that the credit would be in lieu of any deduction to which the taxpayer would otherwise be entitled.

This bill would provide that a taxpayer may carry over any excess credit for the succeeding five years or until exhausted, whichever occurs first.

Since **this bill** does not specify otherwise, the general rules in state law regarding the division of credits between taxpayers who share in the costs (other than spouses filing separate returns) would apply, and this credit would not reduce regular tax below tentative minimum tax.

This bill would require the FTB to report on the fiscal impact of the credit to the Legislature on or before July 1, 2001.

This bill would require the FTB to report to the Department of Finance (DOF) by January 1 of each year the amount of credits allowed that were claimed in taxable years ending in the preceding calendar year.

Policy Considerations

Credits generally are designed to encourage a desired behavior. This bill would allow a credit for behavior in which taxpayers may currently be

engaged. For example, a student, currently attending a public school mandating a school uniform, would qualify a taxpayer for this credit. This bill does not specify a repeal date. Credits typically are enacted with a repeal date to allow the Legislature to review their effectiveness.

This bill would require a husband and wife filing separate returns to divide the credit. The general provisions regarding the operation of credits allow the credit to be claimed by one spouse or divided equally. The author may wish to remove this language and allow the general provisions to control, which would allow married taxpayers filing separate returns more flexibility.

Implementation Considerations

Department staff has identified the following implementation considerations:

- ◆ This bill does not disallow two taxpayers from each claiming a credit for a single student's mandated school uniform. For example, if the student's parents buy one uniform and the student's uncle buys another uniform, it is unclear if the parents and the uncle would each be allowed a credit.
- ◆ The Education Code section referenced is fairly broad and a school district may mandate a dress code under its provisions rather than a specific school uniform. The bill should be clarified that the credit is allowed only on apparel designated as an actual uniform, and not on all items of clothing which do not conflict with a dress code.
- ◆ This bill does not require verification that a public school district has mandated a school uniform. If the taxpayer was required to provide to the Franchise Tax Board upon request a copy of the school district's school uniform mandate, along with the receipt, these requirements would ensure that the department could verify that the credit is being claimed with respect to the proper attire.
- ◆ This bill requires FTB to report to the Legislature on or before July 1, 2001, on the fiscal impact of the this tax credit. However, since this is a two-year bill and could not be enacted before 2000, the credit would first appear on returns filed in 2001. The July 1, 2001, report would include incomplete data. In addition, the bill requires a to the Department of Finance by January 1 of each year on credits claimed in "taxable years ending in the preceding calendar year." This language is unclear, but seems to require a report of the cumulative total of credits claimed. Department staff is available to assist in the resolution of these or any other considerations identified.

LEGISLATIVELY MANDATED REPORTS

The FTB would be required to report to the Department of Finance by January 1st of each year the amount of credits allowed by this bill claimed in taxable years ending in the preceding calendar year.

The FTB also would be required to report to the Legislature on or before July 1, 2001, the fiscal impact of the tax credit established by this bill.

FISCAL IMPACT

Departmental Costs

With the resolution of the implementation considerations, this bill would not significantly impact the department's costs.

Tax Revenue Estimate

It is unknown how many students of California K-12 public schools are subject to a mandated school uniform. (According to the October 1997 California Statistical Abstract, approximately 527,700 students were enrolled in K-12 public schools for the 1997/1998 school year.) As a rule of thumb, for every 10,000 qualified credits claimed for mandated uniforms with an average applied credit of \$100, revenue losses would be on the order of \$1 million.

BOARD POSITION

Pending.